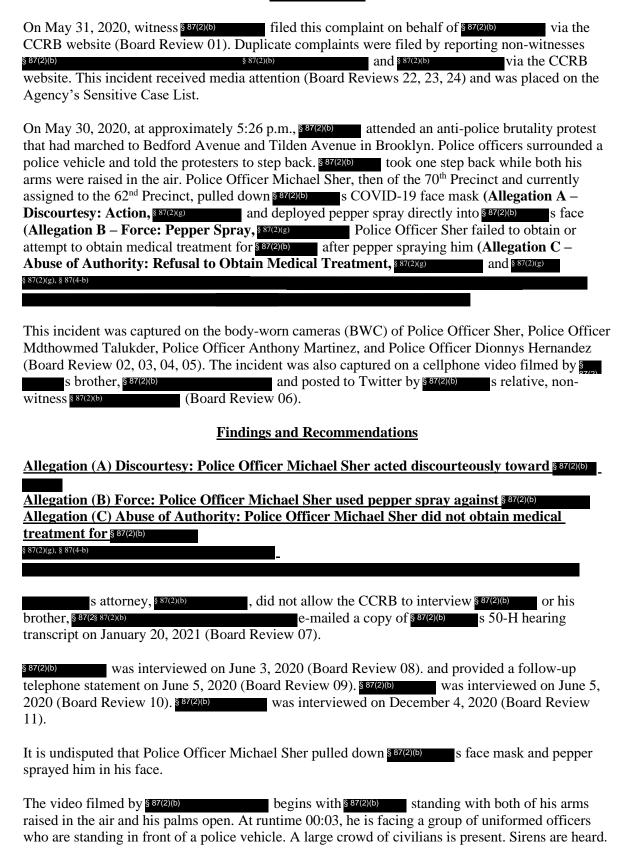
CCRB INVESTIGATIVE RECOMMENDATION

Investigator:		Team:	CCRB Case #:	$\overline{\mathbf{Q}}$	Force	V	Discourt.	. 🗆	U.S.
Jean Paul Lozada		Squad #2	202003703		Abuse		O.L.		Injury
In aid ant Data(a)		I antinu of Insident		+-	Dun nim nt.	10	Ma COL	T E	0.001
Incident Date(s)		Location of Incident:		1	Precinct:		Mo. SOL		O SOL
Saturday, 05/30/2020 5:26 PM		Bedford Avenue and T			70		/30/2021		/4/2022
Date/Time CV Reported		CV Reported At:	How CV Reported	l:	Date/Time	Rece	eived at CC	RB	
Sun, 05/31/2020 10:42 AM		CCRB	On-line website		Sun, 05/31	/2020	0 10:42 AN	Л	
Complainant/Victim	Type	Home Addre	ess						
Witness(es)		Home Addre	ess						
Subject Officer(s)	Shield	TaxID	Command						
		- 4	Commanu						
1. POM Michael Sher	07435	951244	070 PCT						
1. POM Michael Sher Witness Officer(s)	07435 Shield No	951244							
		951244	070 PCT						
Witness Officer(s)		951244	070 PCT						
Witness Officer(s) 1. Officers	Shield No	951244 O Tax No	070 PCT Cmd Name						
Witness Officer(s) 1. Officers 2. POM Dionnys Hernandez	Shield No	951244 o Tax No 961814	070 PCT Cmd Name 070 PCT						
Witness Officer(s) 1. Officers 2. POM Dionnys Hernandez 3. POM Mdthowhed Talukder	Shield No. 03844 26269	951244 Tax No 961814 967364	070 PCT Cmd Name 070 PCT 067 PCT						
Witness Officer(s) 1. Officers 2. POM Dionnys Hernandez 3. POM Mdthowhed Talukder 4. POM Marc Fontana	03844 26269 16274	951244 Tax No 961814 967364 951741	070 PCT Cmd Name 070 PCT 067 PCT 070 PCT						
Witness Officer(s) 1. Officers 2. POM Dionnys Hernandez 3. POM Mdthowhed Talukder 4. POM Marc Fontana 5. POM Edward Obrien	03844 26269 16274 03529	951244 Tax No 961814 967364 951741 961548	070 PCT Cmd Name 070 PCT 067 PCT 070 PCT 070 PCT						
Witness Officer(s) 1. Officers 2. POM Dionnys Hernandez 3. POM Mdthowhed Talukder 4. POM Marc Fontana 5. POM Edward Obrien 6. POM Constantin Neamtu	03844 26269 16274 03529 03504	951244 0 Tax No 961814 967364 951741 961548 961000	070 PCT Cmd Name 070 PCT 067 PCT 070 PCT 070 PCT 070 PCT						
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Witness Officer(s) 1. Officers 2. POM Dionnys Hernandez 3. POM Mdthowhed Talukder 4. POM Marc Fontana 5. POM Edward Obrien 6. POM Constantin Neamtu 7. POM Arthur Becerra 8. POM Justin Stewart	03844 26269 16274 03529 03504 00279 23742	951244 Tax No 961814 967364 951741 961548 961000 961495 962819	070 PCT Cmd Name 070 PCT 067 PCT 070 PCT 070 PCT 070 PCT 070 PCT 070 PCT						
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Witness Officer(s)	Shield No	Tax No	Cmd Name	
18. POM Jay Huang	31783	965199	070 PCT	
19. POM Yayonfrant Jeanpierre	02796	947104	070 PCT	
20. POM Michael Digiovanna	12626	966033	070 PCT	
21. SGT Imran Khan	05564	956020	070 PCT	
22. SGT Lisa Matamoros	04517	949702	070 PCT	
23. POM Anthony Martinez	18157	960883	067 PCT	
Officer(s)	Allegation		Investigator Recommend	ation

Officer(s)	Allegation	Investigator Recommendation
A.POM Michael Sher	Discourtesy: Police Officer Michael Sher acted discourteously toward § 87(2)(b)	
B.POM Michael Sher	Force: Police Officer Michael Sher used pepper spray against \$87(2)(b)	
C.POM Michael Sher	Abuse: Police Officer Michael Sher did not obtain medical treatment for §87(2)(b)	
§ 87(4-b), § 87(2)(g)		

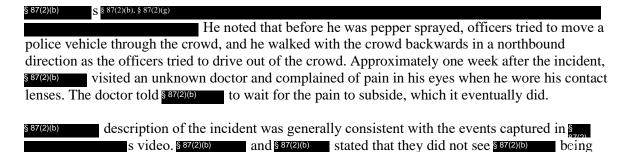
Case Summary



A male voice is heard repeatedly telling the crowd to "Stay back." Police Officer Sher is seen slowly walking toward civilians with both his arms extended toward them. Police Officer Sher approaches \$87(2)(b) and places his right hand against \$87(2)(b) as chest. \$87(2)(b) as takes one step back while keeping his arms raised. Police Officer Sher then grabs \$87(2)(b) as face mask with his right hand and lowers it off his face. Police Officer Sher then reaches toward \$87(2)(b) as bare face with his left hand and pepper sprays him. \$87(2)(b) are recoils once he is pepper sprayed.

The incident is also captured in Police Officer Sher's BWC footage at runtime 11:05, Police Officer Talukder's BWC footage at runtime 21:03, Police Officer Martinez's BWC footage at runtime 24:59, and Police Officer Hernandez's BWC footage at runtime 06:24.

At runtime 01:07 into the subclip of the relevant portion of Police Officer Sher's BWC footage (Board Review 25), (Board Review



pepper sprayed, but saw people rendering aid to him afterwards.

Police Officer Sher's attorney, (1970) of (1970) of (1970) of (1970) of (1970) of (1970) of the Charges and Specifications served to Police Officer Sher by Deputy Inspector Larry Chambers of the Internal Affairs Bureau (Board Review 12). Count 1 of these charges alleges that Police Officer Sher "wrongfully and without just cause used force against one or more people, including pulling down glasses or other eyewear or face masks, and spraying the faces of said people with oleoresin capsicum pepper spray, causing said people to suffer pain and injury." Count 2 alleges that Police Officer Sher "having used force against one or more people... wrongfully failed to obtain or to attempt to obtain any medical attention for any injured person, notify his immediate supervisor regarding his use of force and oleoresin capsicum pepper spray, document his use of force in his Activity Log, or prepare a 'Threat, Resistance or Injury (T.R.I.) Interaction Report,' as required." (1970) also sent the CCRB a copy of Police Officer Sher's Negotiated Settlement (Board Review 13), in which Police Officer Sher pleaded guilty to both counts set forth in his Charges and Specifications.

Police Officer Sher's memo book (Board Review 26) indicates that he responded to a request for assistance at Flatbush Avenue and Tilden Avenue, and the job was finalized as 10-91 (non-crime corrected) at 5:03 p.m. Police Officer Sher did not document his pepper spraying of [887(2)(b)] in his memo book.

As per <u>Patrol Guide Procedure 200-02</u> (Board Review 14), the NYPD's values include "maintain[ing] a higher standard of integrity than is generally expected of others because so much is expected of [them]," and, "valu[ing] human life, respect[ing] the dignity of each individual, and render[ing their] services with courtesy and civility."

<u>Patrol Guide Procedure 203-10</u> (Board Review 15) prohibits officers from "engaging in conduct prejudicial to the good order, efficiency, or discipline of the Department."

Patrol Guide Procedures 221-01 (Board Review 16) and 221-02 (Board Review 17) state that officers may use force when it is reasonable to ensure officers' or civilians' safety, or when it is reasonable to place a person in custody or to prevent escape from custody. Officers' use of force must be reasonable under the circumstances, and de-escalation techniques, which may reduce or eliminate the need for force by gaining the subject's voluntary compliance, must be prioritized. Whenever an officer uses force, the officer must "inquire if the subject requires medical attention and document [the] response to [the] inquiry in [their] digital Activity Log."

Patrol Guide Procedure 221-07 (Board Review 18) states, "O.C. pepper spray may be used to gain or maintain control of persons who are actively resisting arrest or lawful custody or exhibiting active aggression, or to prevent individuals from physically injuring themselves, members of the service, or other persons... O.C. pepper spray shall not be used in situations that do not require the use of physical force." After deploying pepper spray, an officer must "request response of Emergency Medical Service (EMS) once the situation is under control."

Patrol Guide Procedure 212-08 (Board Review 27) states that officers must record all tasks performed and enforcement actions taken in their memo books.

2)(b), § 87(2)(g)	
2)(g), § 87(4-b)	

Civilian and Officer CCRB Histories

- This is the first CCRB complaint to which §87(2)(b) has been a party (Board Review 19).
- Police Officer Sher has been a member of service for ten years and has been a subject in nine other CCRB complaints and 12 other allegations, none of which were substantiated. Police

Mediation, Civil, and Criminal Histories

- This complaint was not suitable for mediation.
- \$87(2)(b) s 50-H hearing was held on \$87(2)(b) (Board Review 07). A copy of \$87(2)(b) s Notice of Claim has been requested from the NYC Comptroller's Office and will be added to the case file upon receipt (Board Review 20).

Squad: <u>0</u>)2		
Investigator:	Jean-Paul Lozada Signature	SI Jean-Paul Lozada Print Title & Name	
Squad Leader:	Alexander Opoku-Agyemang Signature	IM Alexander Opoku-Agyemang Print Title & Name	8/6/2021 Date
Reviewer:	Signature	Print Title & Name	Date